IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 6TH MARCH 2007 / 15TH PHALGUNA 1928

OP.No. 5915 of 2001(D)

PETITIONER:

SHRI.E.K.CHANDRASENAN, S/O. E.P.KRISHNAN, AGED 63 YEARS,
MANIMANDIRAM, PLOT NO.30 (H.B),
PANAMPILLY NAGAR,
COCHIN – 36, NOW AT BANGALORE.

BY ADV. SRI.T.M.SREEDHARAN
SRI.N.UNNIKRISHNAN
SRI.T.S.ARUNKUMAR

RESPONDENTS:
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1. THE ASSISTANT EXCISE COMMISSIONER,
KASARAGOD.

2. THE CIRCLE INSPECTOR OF EXCISE,
KASARAGOD.

3. THE COMMISSIONER OF EXCISE,
THIRUVANANTHAPURAM.

4. THE STATE OF KERALA, REPRESENTED BY CHIEF SECRETARY,
SECRETARIAT, THIRUVANANTHAPURAM.

5. SRI.K.M.GEORGE,
KOCHUPARAMBIL HOUSE,
VAZHITHALA, REPRESENTED BY EMMANUEL.K.GEORGE,
P.A.HOLDER.

BY GOVERNMENT PLEADER – ADV. SMT.SMITHA

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 06/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

O.P.No. 5915/2001

ORDER ON CMP NO. 9815/2001 IN O.P.No. 5915/2001.

DISMISSED.

06/03/2007 SD/- (C.N.RAMACHANDRAN NAIR, JUDGE)

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1 COPY OF NOTICE NO.KC.3/82 DATED 10/07/2000 ISSUED BY THE 2ND RESPONDENT.

EXT.P2 COPY OF 9 DEMAND DRAFTS FOR AN AGGREGATING AMOUNT OF Rs. 12,23,400/-.

EXT.P3 COPY OF LETTER DATED 26/11/2000 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

EXT.P4 COPY OF PROCEEDINGS DATED 22/01/2001 NO.KS.7-2790/94 PASSED BY THE 1ST RESPONDENT.

// TRUE COPY //

PA TO JUDGE

jg

C.N.RAMACHANDRAN NAIR, J.

O.P. No. 5915 of 2001

Dated, this the 6th day of March, 2007

J U D G M E N T

The prayer in the original petition is for declaring that the petitioner is entitled to Amnesty Benefit of 75% of waiver of interest for discharging kist liability. The learned Government Pleader rightly pointed out that Amnesty Benefit is available only if full liability is settled with 25% interest within the time granted. Admittedly, petitioner paid 50% stating that co-licensee has to pay the balance 50%. Settlement under the Amnesty scheme is with respect to full liability and sharing of liability among co-licencees is not the concern of the department as it is to be settled between them. In the circumstance, I do not find any justification to interfere in the denial of Amnesty Benefit to the petitioner. However, I feel further time can be granted to settle full liability under Amnesty Scheme, provided, petitioner pays future interest with balance liability i.e. the balance outstanding with 25% interest and further interest on said amount at statutory rate of 18% from last date of payment under Amnesty

Scheme till date of payment if such amounts are paid at least by 30/04/2007, failing which respondents are free to proceed for recovery of entire arrears with interest ignoring claim of Amnesty Benefit. Since both licensees are liable to be proceeded against, it is for the department to proceed against the assets of both the defaulters. The payment made by the petitioner on the last date should be reckoned and only balance should be recovered.

(C.N.RAMACHANDRAN NAIR, JUDGE)

jg